

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ewa Zajac	Team: Team # 6	CCRB Case #: 200208595	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/26/2002 12:10 PM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 09	18 Mo. SOL 6/26/2004	EO SOL 6/26/2004	
Date/Time CV Reported Thu, 12/26/2002 1:20 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 12/26/2002 1:20 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jimmy Moutopoulos	01108	923456	PSA 4
2. POM Louis Falanga	02006	914357	PSA 4
3. SGT Christophe Stilianesis	02657	918367	PSA 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Gionata Bargellini	00000	907637	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jimmy Moutopoulos	Abuse: On December 7th, 2002, PO Jimmy Moutopoulos threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Louis Falanga	Abuse: On December 26th, 2002, PO Louis Falanga frisked § 87(2)(b)	§ 87(2)(b)
C.POM Louis Falanga	Discourtesy: On December 26th, 2002, PO Louis Falanga spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
D.POM Louis Falanga	Abuse: On December 26th, 2002, PO Louis Falanga threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.POM Louis Falanga	Abuse: On December 26th, 2002, PO Louis Falanga refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)
F.SGT Christophe Stilianesis	Abuse: On December 26th, 2002, Sgt. Christopher Stilianesis threatened to arrest § 87(2)(b)	§ 87(2)(b)

Synopsis

On December 2nd, 2002, PO Moutopoulos issued a summons to § 87(2)(b) for not wearing a seat belt. On December 7th, 2002, § 87(2)(b) was driving his car on § 87(2)(b) toward § 87(2)(b) in Manhattan. § 87(2)(b) made a turn onto a street that was closed off due to a fire. PO Moutopoulos stopped § 87(2)(b) and allegedly threatened to arrest him. PO Moutopoulos was also discourteous toward § 87(2)(b). At approximately 12:10PM on December 26th, 2002, § 87(2)(b)'s car was double parked on § 87(2)(b) near § 87(2)(b). PO Moutopoulos issued § 87(2)(b) a summons for double parking. During that interaction, PO Falanga allegedly threatened to arrest § 87(2)(b) and used obscene and discourteous language toward him. PO Falanga also did not provide § 87(2)(b) with his name and shield number as was requested. § 87(2)(b) drove away and a few minutes later was pulled over by PO Moutopoulos who issued him a summons for failure to signal. During the car stop, PO Falanga frisked § 87(2)(b) who was the front seat passenger in § 87(2)(b)'s vehicle. A supervisor responded to the scene and advised § 87(2)(b) to go into the precinct and file a complaint if he desired to do so. § 87(2)(b) went to the PSA 8 Precinct, where Sgt. Stilianesis allegedly threatened to arrest him for having two separate driver's licenses.

§ 87(2)(b) filed his complaint in person at the CCRB on the morning of December 27th, 2002. § 87(2)(g)

§ 87(2)(b)

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Summary of Complaint

§ 87(2)(b) was interviewed on December 27th, 2002 at the CCRB [Encl. 9a-d].

At approximately 1:20 PM on December 2nd, 2002, § 87(2)(b) was driving his car and was pulling out of § 87(2)(b) and § 87(2)(b). § 87(2)(b) was making a left hand turn onto § 87(2)(b) at which time he observed a police car on the corner waiting at a light. § 87(2)(b) had the right of way and pulled his vehicle in front and around the police car. The officers in the police car looked at § 87(2)(b) and his wife, § 87(2)(b) who sat in the front passenger seat, as he continued to drive. § 87(2)(b) and § 87(2)(b) were both wearing their seat belts. § 87(2)(b) went to park his car on § 87(2)(b). As § 87(2)(b) was pulling his car into a parking space, he saw the police vehicle make a U-turn and drive toward his car. § 87(2)(b) unbuckled his seat belt, because as he explained he does not feel comfortable turning in his seat and parking with the seat belt on. § 87(2)(b) unbuckled her seat belt at this time as well. Once § 87(2)(b)'s car was parked, he noticed that the police vehicle double-parked behind him. The police car had its lights on at that time. Two officers came out of the car and one of them approached § 87(2)(b) on the driver's side. PO Moutopoulos (described as the driver of the vehicle, white male, 5' 5", 160-170lbs, dressed in uniform and with a mustache), whose name § 87(2)(b) later learned from the summons, told § 87(2)(b) that he was not wearing a seatbelt. When the officer approached, § 87(2)(b) shut off his car engine. § 87(2)(b) told the officer that he only took off his seatbelt as he was parking the vehicle. PO Moutopoulos asked § 87(2)(b) for his license and registration. PO Moutopoulos took § 87(2)(b)'s paperwork back to his vehicle and after a few minutes came back and handed § 87(2)(b) a summons for not wearing a seat belt while the engine was running. PO Moutopoulos told § 87(2)(b) to have a nice day and left the scene. PO Moutopoulos's partner (described as a white male dressed in uniform) stood on the passenger side behind § 87(2)(b)'s vehicle for the entirety of the interaction. § 87(2)(b) explained that as he drove his vehicle, his seat leans far back because he has back problems. § 87(2)(b) stated that this made it hard for the officer to see that he was wearing his seat belt as he was driving.

On December 7th, 2002 around 1:00 PM, § 87(2)(b) was driving on § 87(2)(b) from the direction of § 87(2)(b) toward § 87(2)(b). § 87(2)(b) was also in the vehicle in the passenger seat. There was a police vehicle on the corner of § 87(2)(b); however, it was not blocking the street. § 87(2)(b) was unaware that there was a fire on § 87(2)(b) and he made a turn into that street. As soon as § 87(2)(b)

made the turn, he realized that there were fire trucks in the middle of the streets and he would not be able to drive through. § 87(2)(b) immediately stopped and put his car in reverse. A female officer (described as a Hispanic female, light skin, approximately 5' 6" and 150 lbs, with blond and black hair and approximately 32 years old) signaled to § 87(2)(b) by waving her hand to back his vehicle up. At this time § 87(2)(b) noticed PO Moutopoulos in a police scooter on the sidewalk next to the police vehicle. PO Moutopoulos drove the scooter in front of § 87(2)(b)'s vehicle and parked it in the middle of the street. PO Moutopoulos jumped out of the scooter and started screaming at § 87(2)(b) "what are you stupid, don't you see the fire trucks?" PO Moutopoulos was rushing § 87(2)(b) to back his vehicle up; however, § 87(2)(b) was unable to do so quickly because there were people crossing the street behind his car. PO Moutopoulos told § 87(2)(b) "next time I see you driving, I'm going to lock you up." Once the female officer saw that PO Moutopoulos and § 87(2)(b) were arguing, she walked away. § 87(2)(b) slowly backed up his car and left the scene.

At approximately 12:10 PM on December 26th, 2002, § 87(2)(b)'s vehicle was double-parked on § 87(2)(b) near § 87(2)(b) in front of an Indian store on the corner. § 87(2)(b)'s § 87(2)(b) brother, § 87(2)(b) was sitting in the front passenger seat of the vehicle. § 87(2)(b)'s friend, § 87(2)(b) (unknown last name) was still inside the Indian store. § 87(2)(b) was walking out of the store when he observed that a police vehicle drove past his car and went around the block. The police car then parked approximately half a block away and waited. § 87(2)(b) waited for his friend § 87(2)(b) to come out of the store while he stood next to his vehicle talking on the phone. § 87(2)(b) stated that he saw the officers looking at him, at which time he nodded (shook) his head and the officers pulled their vehicle behind § 87(2)(b)'s car. § 87(2)(b) stated that the officers probably assumed that he was not going to move his vehicle.

Two officers jumped out of the vehicle. PO Moutopoulos was the passenger and PO Falanga was the driver (identified through investigation and described by § 87(2)(b) as a white male, approximately a foot taller than PO Moutopoulos, heavy set, and approximately 40 years old with spiked hair, green eyes, and blond goatee). Both officers were dressed in uniforms. § 87(2)(b) told the officers, "man, you don't get tired of harassing me, don't you." PO Moutopoulos told § 87(2)(b) "I'm going to give you a ticket for double-parking." In response, § 87(2)(b) stated that he was sarcastic toward the officers, telling them, "go ahead, give me the ticket, like that's going to hurt me, don't worry, I'm gonna take you to court." § 87(2)(b) told the officers that they are "real pieces of shit" because they continue to harass him. § 87(2)(b) told the officers to fight some better crime than what they were fighting then. PO Falanga became upset because § 87(2)(b) was making these statements and ran up to § 87(2)(b) and stood an inch in front of his face. PO Falanga stated, "you think I can't lock you up?" § 87(2)(b) stated that he and PO Falanga were arguing face to face and PO Falanga called § 87(2)(b) a fucking smartass. § 87(2)(b) kept telling PO Falanga, "go ahead, lock me up." While § 87(2)(b) and PO Falanga were arguing, PO Moutopoulos continued to write out the summons and did not pay attention to his partner and § 87(2)(b). § 87(2)(b) then asked PO Moutopoulos for his shield number and PO Moutopoulos showed it to him. § 87(2)(b) also asked PO Falanga for his shield number; however, PO Falanga stated, "get away from me and from my cop car" and walked away from § 87(2)(b). PO Moutopoulos handed § 87(2)(b) the summons and § 87(2)(b) stated, "thanks a lot you fucking assholes." § 87(2)(b) then got into his vehicle, signaled to pull out into traffic and made a right turn onto § 87(2)(b) going toward § 87(2)(b). The officers waited for § 87(2)(b) to drive away. § 87(2)(b) drove toward the precinct, which is located on § 87(2)(b) and § 87(2)(b). Approximately a quarter of a block down toward § 87(2)(b), § 87(2)(b) looked in the rear view mirror and noticed that the police vehicle was behind him. The police vehicle turned on its lights; however, § 87(2)(b) did not stop his vehicle immediately, but continued to drive toward the precinct. § 87(2)(b) pulled over in front of the precinct and exited his vehicle to go inside. PO Moutopoulos told § 87(2)(b) to get back in his car. PO Moutopoulos approached § 87(2)(b)'s vehicle on the driver's side. § 87(2)(b) asked the officer what he had done wrong. PO Moutopoulos told § 87(2)(b) that he had failed to signal. § 87(2)(b) was in the process of giving PO Moutopoulos his license and registration, at which time PO Falanga approached § 87(2)(b)'s vehicle on the passenger side. PO Falanga asked § 87(2)(b) who sat in the front passenger seat, whether there were any weapons in the car. § 87(2)(b) told PO Falanga that he did not know. PO Falanga stated, "oh you don't want to answer me? Get out of the car!" PO Falanga put his hand inside § 87(2)(b)'s vehicle through the already open front passenger window and pulled the lock knob up to unlock the door. PO Falanga then grabbed § 87(2)(b) by his jacket and pulled him out of the vehicle. § 87(2)(b) told PO Falanga not to touch him, however he did not resist. PO Falanga attempted to place § 87(2)(b)

§ 87(2)(b)'s hands on top of the vehicle; however, § 87(2)(b) continued to tell PO Falanga not to touch him and kept his hands down. PO Falanga took his hands off § 87(2)(b) at which time § 87(2)(b) placed his hands on top of the vehicle. PO Falanga patted § 87(2)(b) down and told him to get back in the car. PO Moutopoulos then took § 87(2)(b)'s documents back to his police car to write out the summons. § 87(2)(b) asked the officers to call a Captain, however, the officers refused. As PO Moutopoulos was writing out the summons for § 87(2)(b) § 87(2)(b) called 911 and requested that a Captain respond to the scene because two officers were harassing him.

At that time § 87(2)(b) looked in his rear view mirror and noticed that there were approximately 10 police vehicles behind his vehicle. There were two vans, a regular police car and a scooter with police officers inside. PO Falanga walked toward the back of § 87(2)(b)'s vehicle and waited there. At that time a Captain drove by and § 87(2)(b) mouthed to him that he needed to talk to him. The Captain pulled his vehicle over and came to talk to § 87(2)(b). The Captain told § 87(2)(b) to remain in his vehicle, at which time § 87(2)(b) explained the situation. The Captain told § 87(2)(b) that if he felt that he had wrongfully received the summons, he would need to appeal it in court. § 87(2)(b) told the Captain that PO Moutopoulos had been harassing him and that he wanted to file a complaint against the officer. The Captain told § 87(2)(b) to come into the precinct and fill out a form. Next, PO Moutopoulos came back to § 87(2)(b) and handed him a summons and told § 87(2)(b) to have a nice day.

§ 87(2)(b) then moved his car, parked it and went into the precinct to file a complaint. A few minutes later, § 87(2)(b)'s wife, § 87(2)(b) came to the precinct. § 87(2)(b) came as a result of § 87(2)(b) repeatedly calling her, as well as because his friend, § 87(2)(b) (unknown last name) saw § 87(2)(b)'s car outside of the precinct and went to get § 87(2)(b). The Captain that § 87(2)(b) spoke to outside of the precinct told him that the Sergeant (described as a white male, 5' 6" and stocky, with dark blond hair) would take his complaint. Sgt. Stilianesis (identified through investigation) told § 87(2)(b) that he would have to wait a few minutes and told him to wait in a side room. Sgt. Stilianesis also asked § 87(2)(b) who his witnesses were and then told § 87(2)(b) and § 87(2)(b) to leave and § 87(2)(b) to remain. § 87(2)(b) and § 87(2)(b) stayed at the precinct and § 87(2)(b) and § 87(2)(b) left.

§ 87(2)(b) waited 20 minutes, however, felt that he was just being put off and ignored. § 87(2)(b) went to speak to Sgt. Stilianesis and told him that he would go to CCRB instead to file his complaint. Sgt. Stilianesis came out from behind the desk and pulled § 87(2)(b) aside. Sgt. Stilianesis asked § 87(2)(b) whether he knew that he had two driver's licenses. § 87(2)(b) explained that he's had a suspended license in the past, however, he had fixed his record and had just received his new permit. § 87(2)(b) asked the Sergeant to see the paperwork that he was holding, however, Sgt. Stilianesis would not show it to him. Sgt. Stilianesis then told § 87(2)(b) that he had called his parole officer and he said that they're coming to see you. § 87(2)(b) told the Sergeant that he did not have a parole officer and that his parole was inactive. § 87(2)(b) explained that his regular parole officer told him at the time when his parole was made inactive that a new officer, who was a black female, would be his new parole officer if he were ever arrested again. Because the Sergeant stated to § 87(2)(b) that he spoke with a male, § 87(2)(b) knew the officer was lying and was just trying to scare him. The Sergeant told § 87(2)(b) that he could arrest him right then for having two driver's licenses. § 87(2)(b) told the Sergeant that it was a mistake and asked to see the paperwork. Sgt. Stilianesis would not show § 87(2)(b) the papers and told him that he was still waiting for a picture to come up on the screen. Sgt. Stilianesis gave § 87(2)(b) a complaint report and two phone numbers to call if he wanted to file a complaint. § 87(2)(b) told Sgt. Stilianesis that he was full of shit and walked out of the precinct.

§ 87(2)(b) stated that he would fight the summonses in court. § 87(2)(b) stated that his complaint is not about the tickets, but about the officers harassing him.

Results of Investigation

Witness statements

§ 87(2)(b) was interviewed on December 27, 2002 at the CCRB [Encl. 10a-b].

On December 2nd, 2002, § 87(2)(b) was the passenger in a vehicle driven by her husband, § 87(2)(b). Before parking the car, § 87(2)(b) took off his seatbelt. As § 87(2)(b) was parking the car, § 87(2)(b) took off her seatbelt as well. § 87(2)(b) put the car in park and § 87(2)(b) was getting ready to exit the vehicle, at which time an officer approached the vehicle. PO Moutopoulos (described as a male, Hispanic or Italian looking with light skin, short with a mustache, dark hair and dark eyes) stated that he was just about to pull § 87(2)(b) over and asked to see his license and registration. § 87(2)(b) only had a learner's permit, so PO Moutopoulos asked § 87(2)(b) for her license. § 87(2)(b) gave PO Moutopoulos her license and he went back to his car with it. There was another officer in the police car, PO2, however, he never exited his vehicle and never approached § 87(2)(b)'s vehicle. § 87(2)(b) did not see what PO2 looked like.

PO Moutopoulos came back and handed § 87(2)(b) a summons for not having seatbelts on and for engine idling. § 87(2)(b) stated that § 87(2)(b) did not turn the car off at any time and after they received the summons, they decided to leave. § 87(2)(b) drove home on § 87(2)(b) and made a right turn on § 87(2)(b), at which time § 87(2)(b) noticed that the officers were following them. When § 87(2)(b) stopped his car in front of his residence on § 87(2)(b) the police car drove by and kept going.

A few days later, on December 7th, 2002, § 87(2)(b) was driving the car on § 87(2)(b) and § 87(2)(b) was the passenger. § 87(2)(b) made a right turn onto § 87(2)(b) where there was a fire on the block. There was a female officer on the corner directing traffic and telling people to go straight. The female officer was preoccupied with something and did not notice § 87(2)(b)'s vehicle. As § 87(2)(b) made the turn, they realized that there was a fire and they would not be able to get through. The female officer motioned for § 87(2)(b) to back the car up, however, there were people crossing the street, so § 87(2)(b) had to wait. At that time, PO Moutopoulos, the same officer that gave her husband a ticket a few days before, backed up his scooter and parked it in front of § 87(2)(b)'s vehicle. PO Moutopoulos exited the scooter and approached § 87(2)(b)'s vehicle. PO Moutopoulos told § 87(2)(b) "next time I'll arrest you." The female officer continued to motion to § 87(2)(b) to back up, so he followed her directions and left the scene.

On December 26th, 2002, § 87(2)(b)'s friend, § 87(2)(b) came to § 87(2)(b)'s apartment and told her that the same police officer was harassing her husband again. § 87(2)(b) saw her husband's car parked outside the precinct, so she went inside. § 87(2)(b) was standing by the information desk and was waiting to make a complaint. Another officer, identified through investigation as Sgt. Stilianesis, told § 87(2)(b) that it was going to be a while and asked them to wait. Sgt. Stilianesis asked § 87(2)(b) who was going to stay with him. Sgt. Stilianesis told § 87(2)(b) that one person could stay with him. § 87(2)(b) told everyone except his wife that they could leave. § 87(2)(b) stated that Sgt. Stilianesis didn't tell § 87(2)(b) and § 87(2)(b) to leave, Sgt. Stilianesis only stated that it was going to take a while.

§ 87(2)(b) and § 87(2)(b) waited for a while, after which they noticed PO Moutopoulos and his partner come back to the precinct. PO Moutopoulos, his partner and other officers were standing in the back huddled together and looking at some papers. § 87(2)(b) went over to Sgt. Stilianesis (who was described by § 87(2)(b) as a white male, approximately 5' 8", 160lbs, with dark hair, approximately 40 years old and dressed in uniform) and told him that he was going to leave and go to CCRB to file his complaint because he felt he was not being taken seriously. Sgt. Stilianesis wanted to speak to § 87(2)(b) on the side. Sgt. Stilianesis asked § 87(2)(b) to wait elsewhere. PO6 (described as a white male, tall, not slim, with dark hair, in his 40s and dressed in uniform) came to talk to § 87(2)(b) and told her that § 87(2)(b)'s driver's license has come up revoked and he could be arrested right then. PO6 also told § 87(2)(b) that they should go to the DMV to have that straightened out. Meanwhile § 87(2)(b) was getting upset while speaking with Sgt. Stilianesis. § 87(2)(b) stated that Sgt. Stilianesis must have said something about § 87(2)(b)'s parole, because § 87(2)(b) heard § 87(2)(b) state, "what are you talking about, I'm not on parole, I'm inactive." § 87(2)(b) could not hear what the officer was saying because he was talking low. § 87(2)(b) then told § 87(2)(b) that they would leave because the officers were not taking him seriously.

§ 87(2)(b) was reported to have been a victim of a frisk on December 26th, 2002, while he was the passenger in § 87(2)(b)'s vehicle. After his initial CCRB interview, § 87(2)(b) has not been cooperative with the CCRB and did not provide contact information for § 87(2)(b) despite many telephone and written contacts. § 87(2)(b) also did not come forward with a complaint against the officer that frisked him. Without any identifying information, it was impossible to find § 87(2)(b) and pursue him for a

CCRB statement in regard to the incident. MetroSearch provided negative results, as there were no listings for § 87(2)(b) in any of the five boroughs. A search of the DMV inquiry system provided a single listing of an individual born after § 87(2)(b) was born in § 87(2)(b) and indicated that his brother is younger than him). A subsequent search of the Cole Directory did not provide any listings for § 87(2)(b) at § 87(2)(b). A subpoena request inquiring about telephone number for § 87(2)(b) at the indicated address was sent to Verizon, however, did not yield positive results. § 87(2)(g)

§ 87(2)(b) (unknown last name) was indicated by § 87(2)(b) to have been a witness to the incident that occurred on December 26th, 2002. § 87(2)(b) did not provide § 87(2)(b)'s last name and did not provide any contact or identifying information for this individual. § 87(2)(g)

Police Officer statements

Sgt. Christopher Stilianesis, shield number 2657 of the PSA 4 Command, was interviewed on February 18th, 2003 at the CCRB [Encl. 11a-b]. On December 26th, 2002, Sgt. Stilianesis worked a 6:55AM by 5:52PM tour, performed the Domestic Violence sergeant duties and was dressed in uniform. Sgt. Stilianesis did not have an assigned partner and was not assigned to any vehicles.

At approximately 1:15PM on December 26th, 2002, Sgt. Stilianesis was walking inside the PSA 4 Precinct, when he observed § 87(2)(b) speaking with Lt. Bargellini. There was another Hispanic male and a female with § 87(2)(b). Sgt. Stilianesis was informed that § 87(2)(b) had come into the precinct to complain about a summons he had received from PO Moutopoulos. Sgt. Stilianesis gave § 87(2)(b) contact information for the CCRB and informed him about the procedure of filing a complaint. Lt. Bargellini gave § 87(2)(b) the same information. § 87(2)(b) was being belligerent and loud; however, Sgt. Stilianesis could not recall what exactly he was saying. At some point, Sgt. Stilianesis went to check § 87(2)(b)'s record because PO Moutopoulos informed him that § 87(2)(b) might have had a suspended license. § 87(2)(b) did not have any active warrants and Sgt. Stilianesis was not aware of § 87(2)(b)'s parole status. Sgt. Stilianesis could not recall speaking with § 87(2)(b) in regard to his parole status and did not tell § 87(2)(b) that he would call his parole officer. The information from the computer records indicated an individual with the same name, however, a different middle initial. Sgt. Stilianesis asked § 87(2)(b) about whether his license had been suspended and § 87(2)(b) stated that he did not know anything about it. The information was inconclusive and Sgt. Stilianesis could not confirm whether the suspended license record was that of § 87(2)(b). Sgt. Stilianesis could not recall whether he had a printout of that information and could not recall whether § 87(2)(b) requested to see it. Sgt. Stilianesis stated that might have told § 87(2)(b) that if his license was suspended that he could be arrested, however, he could not recall exactly. Upon questioning by his counsel, Sgt. Stilianesis indicated that if § 87(2)(b)'s license had been in fact suspended, § 87(2)(b) would have been arrested as is authorized by the department procedures. § 87(2)(b) was at the precinct for approximately 15 minutes.

PO Moutopoulos later informed Sgt. Stilianesis that § 87(2)(b) had cursed out the officers when they were giving him a summons, told them that he was going to pay for the summons with drug money and threatened to beat up the officer

PO Luis Falanga, shield number 2006 of the PSA4 Command, was interviewed on February 18th, 2003 at the CCRB [Encl. 13a-b]. On December 26th, 2002, PO Falanga worked a 7:00AM by 3:00PM tour and was assigned to Sector D with PO Moutopoulos. PO Falanga was assigned to a marked vehicle no. 9716 in which he was the operator and was dressed in uniform. PO Falanga's memo book entries indicated that at 12:10PM, PO Falanga witnessed PO Moutopoulos issue a summons for double parking in front of § 87(2)(b) [Encl. 12a-d]. The owner was present and shouting obscenities at PO Moutopoulos. The owner was warned and admonished. At 12:20PM, PO Falanga witnessed PO Moutopoulos issue a summons no. § 87(2)(b) to the owner of a blue Legend. Lt. Bargellini from the 9th Precinct was present on the scene. PO Falanga prepared a UF 250 for the front passenger of the vehicle with negative results. The passenger refused to give information. The passenger was frisked as a result of making furtive movements and refusing to listen to the officer's commands and directions.

At approximately 12:10PM on December 26th, 2002, PO Falanga and his partner observed a vehicle that was double parked in front of § 87(2)(b). PO Falanga and PO Moutopoulos exited their RMP and approached the vehicle. PO Moutopoulos began writing a double parking summons for the vehicle. An individual that was later identified to be § 87(2)(b) who was the owner or the operator of the vehicle, was present on the scene and was acting in a loud and boisterous manner. § 87(2)(b) was screaming obscenities at PO Moutopoulos in regard to the summons. § 87(2)(b) was calling PO Moutopoulos a “faggot” and was making threatening remarks that he was going to “kick PO Moutopoulos’s ass.” PO § 87(2)(b) was saying that if the officer didn’t have the gun and shield, § 87(2)(b) would “take care of him.” While PO Moutopoulos was writing out the summons without saying anything, PO Falanga was attempting to calm § 87(2)(b) down. PO Falanga informed § 87(2)(b) that he could be arrested for what he was saying, indicating the threats toward PO Moutopoulos, and told him to relax. PO Falanga stated that § 87(2)(b) was escalating the situation by his boisterous behavior, his demeanor and mannerisms (being jumpy and running around, being on the cell phone) and could have been arrested for being disorderly. § 87(2)(b)s behavior was drawing a crowd and PO Falanga and his partner decided to issued the summons and conclude the interaction by leaving. § 87(2)(b) followed the officers to their vehicle and continued to verbally escalate the situation. PO Falanga asked § 87(2)(b) to walk away from the police vehicle. At some point, § 87(2)(b) was writing down the officers’ shield numbers, but he did not specifically approach and ask the officers for their shield numbers. PO Falanga stated that at no time did he or PO Moutopoulos refuse to provide their shield numbers to § 87(2)(b).

After being issued the summons, § 87(2)(b) got inside his vehicle and sped off recklessly into two-way traffic, at which time PO Falanga and PO Moutopoulos pulled § 87(2)(b) over for the infractions that the officers witnessed. PO Moutopoulos went to the driver’s side of the vehicle and dealt with the driver, while PO Falanga walked to the passenger side of the vehicle. The vehicle had darkly tinted windows and PO Falanga could not see inside. The front passenger window was partially rolled down and PO Falanga could barely see inside. PO Falanga asked the passenger to roll his window down and the passenger rolled it down slightly, just enough that the window moved but not enough to allow PO Falanga to see inside (4-5 inches). PO Falanga asked the passenger whether there were any weapons inside the car and the passenger responded that he did not know. According to PO Falanga, the passenger was moving around a lot inside the vehicle and the officer could not see what he was doing or whether he was reaching for anything. PO Falanga stated that he was afraid for his and his partner’s safety, so he opened the car door and asked the passenger to step outside. PO Falanga stated that the door was unlocked and that he did not place his hand inside the vehicle to unlock it, especially since the passenger window was not rolled down and PO Falanga would not be able to place his hand inside. The passenger, who was a Hispanic male (5’ 7”, 150lbs, brown hair, brown eyes, slim build and in his 20s) voluntarily stepped out of the vehicle, at which point PO Falanga placed the palm of his hand on the individual’s back. The individual placed his hands on the vehicle, at which point PO Falanga frisked him (described as a light pat down to check for weapons), without searching the individual’s pockets. The individual only stated that PO Falanga couldn’t frisk him and had some disagreement, however, acted in a compliant and “normal” manner. PO Falanga did not physically remove the individual from the vehicle and only placed his hand on the individual’s back once he was already standing outside the car. PO Falanga then looked inside the vehicle to check whether there was anything in the immediate area that the passenger could reach down and get a hold of. PO Falanga indicated that he did not see this passenger inside the vehicle during the initial interaction with § 87(2)(b) (when he was issued a summons for double parking) and did not know at what point the passenger got into the vehicle. PO Falanga stated that once the first summons was issued, he had no reason to pay attention to that vehicle, especially since he was the driver of the RMP, he could not pay attention as to whether any persons were entering that vehicle. A Stop and Frisk Report (250) was filled out because the frisk did not produce any weapons. PO Falanga stated that he did not call anyone a “fucking smartass” and did not use any obscenities toward anyone.

A Lieutenant arrived on the scene because § 87(2)(b) had called 911. § 87(2)(b) was complaining to the Lieutenant about the double parking ticket, and the Lieutenant explained to him that there was nothing that could be done anymore and that if he wished to file a complaint, he should come into the precinct and he would be given all relevant information. Even while the Lieutenant was present, § 87(2)(b) continued to scream and act in a belligerent manner. The second interaction with § 87(2)(b) occurred in front of the

precinct, therefore there were some officers walking and stopping by to see whether everything was all right, however, no one else was involved in the incident.

PO Falanga saw § 87(2)(b) later at the precinct, however, did not interact with him because he was doing other unrelated things.

PO Jimmy Moutopoulos, shield number 1108 of the PSA8 Command, was interviewed on April 7th, 2003 at the CCRB [Encl. 17a-c]. On December 7th, 2002, PO Moutopoulos worked a 7:05AM by 3:40PM tour, was assigned to Scooter patrol in the 9th Precinct and was dressed in uniform. PO Moutopoulos had memo book entries indicating that at approximately 1:25PM, he was assigned a traffic condition in the vicinity of § 87(2)(b) and § 87(2)(b). On December 26th, 2002, PO Moutopoulos worked a 7:05AM by 3:40PM tour, was assigned to 9th Precinct patrol and was working with PO Falanga. PO Moutopoulos was dressed in uniform and assigned to a marked vehicle, number 9716. PO Moutopoulos's memo book entries indicated that at approximately 12:10PM he issued a parking summons (number § 87(2)(b)) to plate number § 87(2)(b) for double parking [Encl. 16a-j]. It is indicated that the owner of the vehicle was present, shouting and cursing at the issuing officer. The owner was warned and admonished. At approximately 12:20PM, PO Moutopoulos observed a blue vehicle entering vehicular traffic and failing to signal left, causing a risk of accident for vehicles traveling southbound on § 87(2)(b). Vehicle left in a reckless manner after receiving a parking summons. PO Moutopoulos witnessed PO Falanga frisk the front passenger without incident in front of § 87(2)(b) during a car stop. The respondent was § 87(2)(b) of § 87(2)(b). At 12:30PM, a summons (number § 87(2)(b)) was issued. 9th Precinct Lt. Bargellini was present on the scene.

On December 7th, 2002, PO Moutopoulos was assigned to a traffic detail in the vicinity of § 87(2)(b) and § 87(2)(b). There was a manhole explosion in front of § 87(2)(b) and PO Moutopoulos was instructed by one of the 9th Precinct sergeants to stop the traffic from coming down that street because there was a fire. PO Moutopoulos parked his scooter on § 87(2)(b) and § 87(2)(b) and only allowed emergency vehicles to enter the street. PO Moutopoulos did not recall interacting with § 87(2)(b) on that day. PO Moutopoulos indicated that he knew who § 87(2)(b) was because he had issued him a summons for not wearing a seatbelt on December 2nd. There was a brief period of time that PO Moutopoulos left his post because he responded to a radio transmission in regard to a drug sale on § 87(2)(b) and § 87(2)(b). PO Moutopoulos backed another sector and was gone for approximately five minutes. PO Moutopoulos did not know whether there were other officers blocking off § 87(2)(b). PO Moutopoulos took cans, which he found on the corners of the street and placed them on the street to block the entry into § 87(2)(b). PO Moutopoulos stated that he did not threaten to arrest § 87(2)(b).

On December 26th, 2002, PO Moutopoulos passed in his patrol car in the vicinity of § 87(2)(b) and § 87(2)(b) where he observed a vehicle that was double-parked in front of a bus stop. The vehicle was double-parked for a few minutes and the driver, identified as § 87(2)(b) was standing outside and talking to some unknown individuals. PO Moutopoulos knew § 87(2)(b) because he had given him a summons on a previous occasion when he and his girlfriend were both not wearing seatbelts. There were couple of passengers in the vehicle, but PO Moutopoulos did not know how many. PO Moutopoulos approached the vehicle and began writing out a summons for the infraction. § 87(2)(b) walked up to PO Moutopoulos and began yelling and cursing at him. PO Moutopoulos stated that § 87(2)(b)'s conduct was uncalled for. § 87(2)(b) was calling PO Moutopoulos a "motherfucker" and an "asshole", as well as stated "fuck the police" and that "drug money would pay for this ticket anyway." PO Moutopoulos told § 87(2)(b) that he was double-parked and that he was going to receive a summons for that. PO Moutopoulos did not curse at § 87(2)(b) at any time. PO Moutopoulos stated that he could have issued a summons for disorderly conduct, but he chose not to do so. PO Moutopoulos told him to refrain from his unnecessary use of language and leave.

PO Moutopoulos continued to write out the summons and § 87(2)(b) got inside his vehicle as he continued to curse at PO Moutopoulos and PO Falanga. PO Falanga, who stood on the passenger side of § 87(2)(b)'s vehicle, interacted with the passenger. PO Moutopoulos stated that one of the passengers in the vehicle stated something to PO Falanga, which caused PO Falanga to become upset and afraid. PO Moutopoulos stood approximately 5 feet away from the vehicle on the driver's side and could not hear what the nature of

the conversation was between PO Falanga and the passenger. PO Moutopoulos stated that the windows of the vehicle were down. PO Falanga opened the door and took the passenger out of the vehicle and frisked him. PO Falanga did not indicate to PO Moutopoulos why he was taking the person out of the vehicle. PO Falanga placed his hands somewhere on the passenger's body (PO Moutopoulos could not see exactly because he was on the other side of the vehicle) and assisted the individual out of the vehicle. PO Moutopoulos stated that he did not know what PO Falanga was doing because he was concentrating on writing the summons. PO Falanga then conducted a quick frisk. Nothing was recovered. PO Moutopoulos did not hear PO Falanga threaten to arrest § 87(2)(b) or call him a "fucking smartass." At some point, § 87(2)(b) asked to see PO Moutopoulos's nametag and shield and PO Moutopoulos showed it to him. PO Moutopoulos did not know whether § 87(2)(b) asked PO Falanga to see his nametag and shield. PO Moutopoulos did not see PO Falanga refuse to give his name or shield number. PO Moutopoulos then placed then placed the summons on the windshield of § 87(2)(b)'s vehicle.

The passenger went back inside the vehicle and § 87(2)(b) drove away in a reckless manner. § 87(2)(b)'s vehicle "did a skid" and he "took off." PO Moutopoulos observed § 87(2)(b) not using a signal while entering traffic, at which point PO Moutopoulos followed § 87(2)(b) and pulled him over in front of the 9th Precinct. PO Moutopoulos told § 87(2)(b) that he did not use his signal and that he drove off in a dangerous manner. PO Moutopoulos asked to see § 87(2)(b)'s paperwork and § 87(2)(b) cooperated. § 87(2)(b)'s demeanor was compliant at that time and he did not curse anymore. Lt. Bargellini responded in regard to a 911 call. PO Moutopoulos could not recall what PO Falanga was doing and indicated that only he interacted with the motorists during the second car stop. PO Moutopoulos spoke with Lt. Bargellini and explained what happened. PO Moutopoulos heard § 87(2)(b) telling Lt. Bargellini that he wanted to file a complaint against PO Moutopoulos. Lt. Bargellini told § 87(2)(b) to go into the precinct and obtain a form. PO Moutopoulos issued § 87(2)(b) a summons for failure to use his signal.

PO Moutopoulos saw § 87(2)(b) at the precinct. § 87(2)(b) was there with a couple of other people, but PO Moutopoulos did not know how many. PO Moutopoulos did not interact with § 87(2)(b) at the precinct. PO Moutopoulos observed § 87(2)(b) interacting with Sgt. Stilianesis from a distance. At no time did PO Moutopoulos hear Sgt. Stilianesis threaten to arrest § 87(2)(b).

Lt. Gionata Bargellini, tax number 907637 of the 9th Precinct, was interviewed on April 4th, 2003 at the CCRB [Encl. 15a-b]. On December 26th, 2002, Lt. Bargellini worked a 7:05AM by 3:40PM tour, was the assigned Platoon Commander and was dressed in uniform. Lt. Bargellini was not assigned to a vehicle. Lt. Bargellini had memo book entries indicating that at approximately 1:00PM a 911 call was made in regard to a CCRB complaint [Encl. 14a-c]. The complaint was phoned in from § 87(2)(b) and § 87(2)(b). Lt. Bargellini referred the complaint to the 9th Precinct for the CCRB form.

At approximately 1:00PM, Lt. Bargellini responded to § 87(2)(b) and § 87(2)(b) in regard to a 911 call that was made. The caller indicated that an officer was issuing him a summons and that the officer was harassing him. Upon arrival, Lt. Bargellini observed that the complainant was not there and there were no officers issuing a summons at that location. Lt. Bargellini drove around the block and headed toward the 9th Precinct. In front of the 9th Precinct, Lt. Bargellini observed an individual (who was later identified as § 87(2)(b)) standing next to his vehicle. Behind § 87(2)(b)'s vehicle was a patrol car and two officers were standing next to it. § 87(2)(b) and the officers were just waiting for a supervisor to respond. One of the officers was PO Moutopoulos. Lt. Bargellini did not know who the other officer was (identified through investigation as PO Falanga from PSA4). Lt. Bargellini approached § 87(2)(b) and asked him about what was going on. § 87(2)(b) explained to Lt. Bargellini that PO Moutopoulos issued him unnecessary summonses and he didn't think it was fair that he did so. § 87(2)(b) told Lt. Bargellini that he received a summons for double-parking and stated that he was in fact parked illegally, however, believed that it was unfair that he received the summons. Besides being upset about the summonses, § 87(2)(b) did not make any other allegations against the officers. Lt. Bargellini told § 87(2)(b) that he should come into the precinct and that he would give him a CCRB form so he could file a complaint. Lt. Bargellini described § 87(2)(b)'s demeanor as hostile. His voice was raised; he was intense and impatient. § 87(2)(b) did not curse at any time while speaking with Lt. Bargellini. Lt. Bargellini stated that he tried to be accommodating to § 87(2)(b) because § 87(2)(b) was aggravated.

While outside the precinct, at no time did Lt. Bargellini observe anyone being frisked. § 87(2)(b) did not request officers' names and shield numbers while Lt. Bargellini was present. Lt. Bargellini stated that § 87(2)(b) already had PO Moutopoulos's name from the summonses that he received.

§ 87(2)(b) and Lt. Bargellini went inside the 9th Precinct, where Lt. Bargellini gave § 87(2)(b) a CCRB form. Lt. Bargellini then directed Sgt. Stilianesis to advise § 87(2)(b) about the procedure of filing a CCRB complaint and to enter the information into the Command Log. § 87(2)(b) came into the precinct with the Lieutenant alone; however, there were approximately three other people in § 87(2)(b)'s vehicle. They remained inside the vehicle the entire time Lt. Bargellini was on the scene and the Lieutenant did not have any verbal interaction with them. Lt. Bargellini observed Sgt. Stilianesis speaking with § 87(2)(b) and advising him about the procedures of filing a CCRB complaint. At no time did Sgt. Stilianesis threaten § 87(2)(b) while Lt. Bargellini was present. Lt. Bargellini was not aware of whether the officers at the precinct ran checks on § 87(2)(b)'s license. § 87(2)(b) had somewhat calmed down at that point. Lt. Bargellini left the precinct and went about his other tasks. Lt. Bargellini was not aware of what had happened because he did not discuss the incidents with PO Moutopoulos. Lt. Bargellini briefly asked PO Moutopoulos whether everything was all right when he arrived on the scene, however, did not inquire about the entire incident.

Note: The female officer from the December 7th, 2002 incident was not interviewed because both § 87(2)(b) and PO Moutopoulos agreed that she was not present during the alleged interaction between the two parties.

Police Department Documents

Sprint Job number § 87(2)(b) is a 911 call and a radio transmission in regard to that call [Encl. 20a-e]. At approximately 12:15PM, a male caller stated "fucking asshole", then told the 911 operator that he needed a Captain on § 87(2)(b) and § 87(2)(b). The caller indicated that there were police officers harassing him. The caller then stated that he wanted the officers badge and then stated "can I see your badge officer?" The radio transmission is of the Central Dispatcher calling the 9th Precinct Lieutenant on the air. "9716" transmitted to Central in regard to a car stop in front of § 87(2)(b), no assistance was required. "9716" then requested that the dispatcher run a NYS learner permit ID check number § 87(2)(b). Central transmitted to "9716" that the check came back valid, last name § 87(2)(b) § 87(2)(b). "9716" thanked the dispatcher. "9716" then asked Central to run another client ID in regard to the same car stop. The ID is § 87(2)(b). Central transmitted that the ID came back valid, class D, § 87(2)(b). 9th Precinct Lieutenant transmitted 10-84 (on scene) and indicated that the complainant went to the precinct.

Traffic Ticket (no. § 87(2)(b)) was issued to § 87(2)(b) on December 2nd, 2002 at approximately 1:20PM by PO Moutopoulos, tax registry no. 923456. The summons was issued for the infraction of no seatbelt while engine running (VTL Sec. 1229 Sub. 03) [Encl. 18a].

The City of New York Notice of Parking Violation (no. § 87(2)(b)) was issued to § 87(2)(b) on December 26th, 2002 at approximately 12:10PM by PO Moutopoulos. The summons was issued for double parking in front of § 87(2)(b) [Encl. 18b].

Traffic Ticket (no. § 87(2)(b)) was issued to § 87(2)(b) on December 26th, 2002 at approximately 12:20PM by PO Moutopoulos for failure to signal (VTL Sec. 1163 Sub. A) [Encl. 18c].

Note: The Department of Motor Vehicles was uncooperative in providing the disposition for these summonses without a release form signed by § 87(2)(b) or an in-person appearance.

The Command Log entry for December 26th, 2002 at 1:15PM indicates that § 87(2)(b) requested to make a CCRB complaint [Encl. 21a-l]. Sgt. Stilianesis gave § 87(2)(b) the top sheet of the civilian complaint report and advised him of filing options. Sgt. Stilianesis also gave § 87(2)(b) the phone numbers for CCRB and IAB.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Subject Officers' CCRB History

There are no substantiated CCRB allegations against PO Falanga, PO Moutopoulos or Sgt. Stilianesis [Encl. 5a-c].

Conclusions and Recommendations

Undisputed facts

On December 2nd, 2002, PO Moutopoulos issued a summons to § 87(2)(b) for not wearing a seat belt. On December 26th, 2002, PO Moutopoulos issued § 87(2)(b) two summonses; for double parking and for failure to signal. While PO Moutopoulos was writing out the summons for failure to signal, PO Falanga frisked § 87(2)(b).

Officer identification

During his CCRB interview, § 87(2)(b) presented copies of the summonses that he received. The summonses from December 7th, 2002 and December 26th, 2002 were issued by PO Moutopoulos. PO Falanga, who was working with PO Moutopoulos on December 26th, 2002, indicated that PO Moutopoulos issued summonses to and interacted with § 87(2)(b). PO Falanga also stated that he frisked the front seat passenger in § 87(2)(b)'s vehicle on December 26th. It is further indicated in PO Moutopoulos's memo book that he witnessed PO Falanga frisk the front seat passenger in § 87(2)(b)'s vehicle. PO Falanga prepared a stop and frisk report in regard to the incident. The recorded radio transmission indicated that patrol car 9716 made a car stop at § 87(2)(b) and subsequently two license identification checks were requested by that patrol car. PO Moutopoulos and PO Falanga were the officers assigned to vehicle number 9716 on December 26th.

Credibility Assessment

§ 87(2)(b) filed his complaint in person the day after his interaction with PO Moutopoulos on December 26th, 2002. § 87(2)(b) had interacted with PO Moutopoulos on three separate occasions in December. § 87(2)(b) felt that the officer was singling him out and was harassing him, which is why he filed the CCRB complaint. § 87(2)(b) was not concerned about the summonses that he received, stating that he would fight the summonses in court. § 87(2)(b) received a summons from PO Moutopoulos on December 2nd, 2002; however, he did not file a complaint. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A. On December 7th, 2002, PO Jimmy Moutopoulos threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that PO Moutopoulos threatened to arrest him after he mistakenly drove onto a closed off street on December 7th, 2002. § 87(2)(g)

§ 87(2)(b) indicated that § 87(2)(b) was closed off and that there were fire trucks in the middle of the block. § 87(2)(b) indicated that he was able to drive onto § 87(2)(b) because officers were not paying attention and nobody stopped him from doing so. § 87(2)(b) also reported that PO Moutopoulos was working in a scooter. § 87(2)(g)

First, PO Moutopoulos confirmed that there was a manhole explosion on § 87(2)(b) which caused a fire. Only emergency vehicles were allowed to proceed onto § 87(2)(b). PO Moutopoulos's memo book entries confirm that he was assigned to a traffic detail in that exact vicinity. Second, PO Moutopoulos indicated that he left his post for a brief moment when he responded to a radio transmission in regard to a drug sale in the vicinity of § 87(2)(b) and § 87(2)(b). PO Moutopoulos was away from his post for approximately five minutes, § 87(2)(g).

Third, PO Moutopoulos confirmed that he was assigned to a scooter. § 87(2)(b) who was the front seat passenger in § 87(2)(b)'s vehicle, corroborated § 87(2)(b)'s statement in regard to the interaction. Both § 87(2)(b) and § 87(2)(b) indicated that § 87(2)(b) unintentionally drove onto the closed off street and was confronted by PO Moutopoulos, who threatened to arrest him "next time."

§ 87(2)(g)

Allegation B. On December 26th, 2002, PO Louis Falanga frisked § 87(2)(b)

§ 87(2)(b) alleged that on December 26th, 2002, PO Falanga frisked § 87(2)(b) in front of the 9th Precinct after a car stop. According to PO Falanga, upon approaching § 87(2)(b)'s car, § 87(2)(b) refused to open his window and PO Falanga could not see inside the vehicle because the windows were tinted. PO Falanga asked § 87(2)(b) whether there were any weapons inside the vehicle. § 87(2)(b) responded that he did not know. According to PO Falanga, § 87(2)(b) was moving around a lot inside the vehicle and the officer could not see what he was doing and whether he was reaching for anything. PO Falanga was afraid for his and his partner's safety, so he opened the car door and asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) voluntarily stepped out of the vehicle, at which point PO Falanga frisked him. PO Falanga then looked inside the vehicle to check whether there was anything in the passenger's immediate area that he could reach down and get a hold of. PO Falanga then prepared a Stop and Frisk Report (250). § 87(2)(b) refused to give the officer any identifying information.

According to Kamins Search and Seizure in regard to action with respect to a passenger, "a police officer can open the passenger door after stopping a vehicle for a traffic violation or after making an investigative stop [Encl. 2a-i]. Additionally, the officer can lean into the passenger's open window to speak to the passenger and can even order the passenger out of the car." Further, "if a police officer observes a passenger engaging in furtive conduct that gives rise to a reasonable belief that the passenger is armed, a frisk will be lawful." § 87(2)(g)

§ 87(2)(b)

Allegation C. On December 26th, 2002, PO Louis Falanga spoke obscenely and/or rudely to § 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) alleged that PO Falanga called him a "fucking smartass." § 87(2)(b) conceded that he used obscene language toward the officers and that he challenged PO Falanga to arrest him. PO Falanga and PO Moutopoulos indicated that § 87(2)(b) was yelling and cursing at the officers while PO Moutopoulos was writing him a summons. This was further confirmed on the 911 tape, where § 87(2)(b) is heard calling someone a "fucking asshole." However, no officers are heard cursing on the tape. § 87(2)(g)

§ 87(2)(b)

PO Falanga and PO Moutopoulos both denied that discourteous or obscene language was used toward § 87(2)(b). § 87(2)(g)

§ 87(2)(b)

Allegation D. On December 26th, 2002, PO Louis Falanga threatened to arrest § 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) alleged that PO Louis Falanga threatened to arrest him. § 87(2)(b) described his own demeanor as being upset and loud, using obscenities toward the officers. Both, PO Moutopoulos and PO Falanga indicated that § 87(2)(b) acted in disorderly manner, conduct that warranted issuance of a criminal court summons for disorderly conduct. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) PO Moutopoulos indicated that he exercised his discretion in spite of § 87(2)(b)'s behavior, and only issued him a summons for double parking. PO Moutopoulos and PO Falanga both indicated that they chose to end the escalating interaction with § 87(2)(b) by walking away. PO Falanga and PO Moutopoulos's memo book entries indicated that § 87(2)(b) was "warned and admonished." PO Falanga

indicated that while PO Moutopoulos was writing out the summons, § 87(2)(b) made threatening remarks toward him, such as that he would “kick his ass.” PO Falanga stated that he told § 87(2)(b) that he could be arrested for making such remarks and asked him to calm down. PO Moutopoulos also indicated that § 87(2)(b) was told that his behavior was unwarranted and that he should refrain from his use of obscene language and leave.

According to the New York State Penal Law article 240.20, a person is guilty of disorderly conduct when he “with intent” causes “public inconvenience, annoyance or alarm” [Encl. 3]. The article further indicates that a person is guilty of disorderly conduct when he makes unreasonable noise, uses obscene or abusive language in a public place, obstructs vehicular or pedestrian traffic or congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E. On December 26th, 2002, PO Louis Falanga refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(b) alleged that when he asked to see PO Falanga’s shield, the officer told him to get away from him and his cop car. PO Falanga stated that when the officers walked to their vehicle after issuing § 87(2)(b) a summons for double parking, § 87(2)(b) followed them and continued to act disorderly. According to PO Falanga, it was at that time that he instructed § 87(2)(b) to walk away from the police vehicle. PO Falanga indicated that § 87(2)(b) was writing down the officers’ shield numbers, but that he did not approach and specifically ask for the officers’ shield numbers. § 87(2)(g)

§ 87(2)(b) indicated that he asked PO Moutopoulos for his shield number and PO Moutopoulos gave it to him upon his request. PO Moutopoulos corroborated that statement. During his CCRB interview, § 87(2)(b) submitted a piece of paper, on which he had written PO Moutopoulos’s name and shield number, as well as the RMP number. § 87(2)(b) did not have PO Falanga’s name or shield number written down. § 87(2)(b) wrote “officer 1108 Moutopollos” and beneath it wrote “officer” with no other information following [Encl. 8].

§ 87(2)(g) a recorded 911 call indicates that § 87(2)(b) did pose a question to see a badge. Specifically, § 87(2)(b) asked, “can I see your badge officer?” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) indicated that PO Falanga obstructed him from obtaining his shield number by walking away from him and stating “get away from me and my cop car.” According to PO Falanga, he did not prevent § 87(2)(b) from obtaining his shield number.

In *Police Department v. Tirado* (OATH Index No. 1977/00, October 6, 2000), the officer was found guilty of violating Patrol Guide procedure 104-01, which requires an officer to “give name and shield number to anyone requesting them” [Encl. 1a-k]. In this case, the officer’s own description of events supported the finding that he violated this section of the Patrol Guide. The officer admitted that he did not give the complainant the requested information because he assumed that the complainant was taking the information down from his badge. It was argued in this case that “Making such an assumption is contrary to the affirmative obligation imposed by Patrol Guide §104-01 to give name and shield number to anyone requesting them.” According to *Police Department v. Matias* (OATH Index No. 1996-97/00, September 8, 2000), a mere belief that a civilian can see an officer’s shield is insufficient to fulfill this obligation.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F. On December 26th, 2002, Sgt. Christopher Stilianesis threatened to arrest § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that Sgt. Stilianesis threatened to arrest him while he was at the 9th Precinct. Sgt. Stilianesis conducted a license check, which was inconclusive. While he could not recall for certain, Sgt. Stilianesis indicated that he might have advised § 87(2)(b) that if his license was suspended that he could be arrested. Sgt. Stilianesis explained that if § 87(2)(b)'s license had been suspended, he would have been arrested as per department procedure.

The New York State Vehicle and Traffic Law article 511 indicates that a person is guilty of aggravated unlicensed operation of a motor vehicle in the third degree “when such person operates a motor vehicle upon a public highway while knowing or having reason to know that such person’s license or privilege of operating such motor vehicle in this state is suspended, revoked or otherwise withdrawn by the commissioner” [Encl. 4a-d]. Article 509 indicates that a person violates the New York State Vehicle and Traffic Law when he holds “more than one unexpired license issued by the commissioner at any one time” [Encl. 4e].

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: